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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,375	02/22/2005	Jiri Babej	67562.15	8801

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HUNTON & WILLIAMS/NEW YORK  
INTELLECTUAL PROPERTY DEPT.  
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WASHINGTON, DC 20006-1109

EXAMINER
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SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/510,375

Applicant(s)

BABEJ ET AL.

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 43-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Claim Objections***

Claim 48 is objected to because of the following informalities: at the end of the first line should be --enclosed--. Also, the claims were misnumbered, there are two sets of claims numbered 48-50, and the second set should be 51-53. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 65 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 65, line 5, "ring-like" is indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

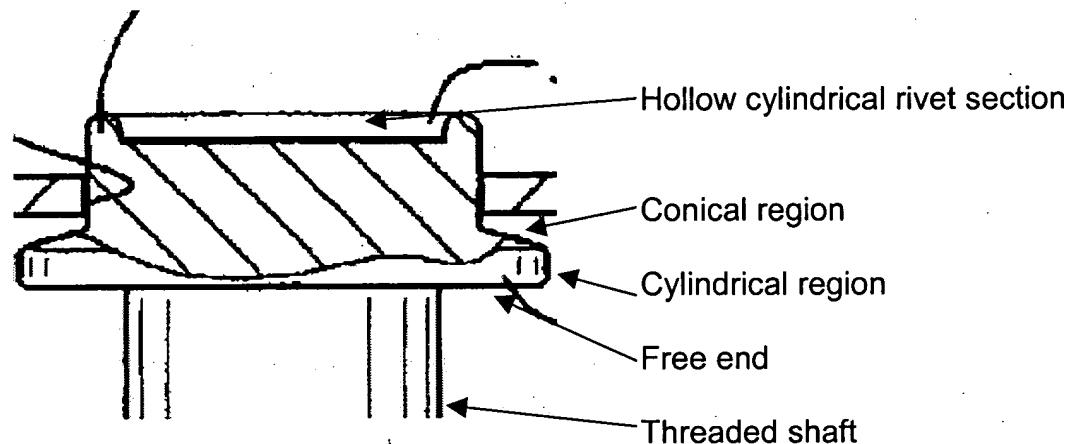
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 43-46, 53 and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Oates (US 6,799,929). Oates discloses a fastener element (40) in

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combination with a metal plate (30) the fastener element comprising features as shown below in the following figure which is a copy of Oates' Fig. 5.



As can be seen in the above figure the cylindrical region has a diameter no larger than the larger diameter end of the conical region and the hollow cylindrical section is formed adjacent the smaller diameter end of the conical region. In regards to claims 45-46, the noses are read as the corners of the polygonal shape (see Fig. 4) at the location where they meet the conical region.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 43, 52, 53, 54 and 60-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (US 4,802,803) in view of Muller (US 4,459,073). Muller '803 discloses a fastener (100) in combination with a plate (120). The fastener comprising a conical region (110) having, at a smaller diameter end, a hollow cylindrical region (104) which is bent over to form a ring recess (at 146) receiving a rim of a conical recess formed in the plate (see Fig. 7). There is further disclosed a threaded shaft extending at a larger diameter end of the conical region. Muller '803 does not disclose a cylindrical portion at the larger diameter end of the conical region. Muller '073 discloses a similar fastener and teaches to optionally provide a cylindrical portion (125) with an end face (126). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the fastener of Muller '803 with a cylindrical portion as disclosed in Muller '073 to provide a guiding a spacing function as discussed in Muller '073. Once the combination was made, the cylindrical portion would not extend the beyond the larger diameter end of the conical portion as shown in Muller '073.

Claims 44-51 and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Muller as applied to claims 43 and 54 above, and further in view of Matthews (US 3,117,611). Modified Muller does not disclose the conical surface to have features preventing rotation nor being a conical region being at least four times thicker than the plate. Matthews disclose a similar fastener but further discloses the surface of the conical region to have noses (26) with recesses therebetween and the fastener received wherein the conical region if at least four times thicker than the plate

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(see Fig. 1). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the conical region of modified Muller with a rotation preventing feature and discloses in Matthews for the purpose of preventing rotation as the nut is attached onto the threaded stud and also to use the fastener in combination with a plate wherein the conical region is at least four times thicker than the plate, again as disclosed in Matthews, in order to provide a greater surface areas between the plate and conical region for better engagement therebetween to prevent pullout and relative rotation. In regards to claims 50, 51, 58 and 59, Matthews shows the cone angle of the conical region to be *approximately* 90°. At the time the invention was made, it would have been obvious for the skilled artisan to incorporate the 90° with the other features of Matthews since the cone angle is works in conjunction with the with the rotation prevention feature to provide optimal securing of the fastener to the thinner plate.

Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over modified Muller as applied to claims 54 and 63 above, and further in view of Ladouceur (US 5,441,417). Ladouceur discloses the inclusion of a nut (30) to operate as a plunger. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the fastener of modified Muller with a nut as disclosed in Ladouceur in order to facilitate the setting of the fastener into the plate without damaging the fastener since the nut would protect the threads of the stud while the fastener is being installed into the plate.

**Conclusion**

Applicant's Remarks have been considered but, are moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

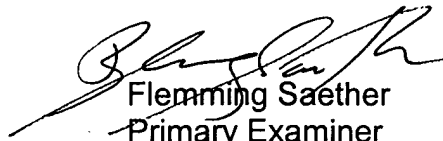
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Flemming Saether  
Primary Examiner  
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